



Georgia Vocational Rehabilitation Agency

BUSINESS ENTERPRISE PROGRAM

RULES AND REGULATIONS
AND
POLICIES AND PROCEDURES

Published January 1, 2011

(Last published on October 01, 2002)

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BUSINESS ENTERPRISE PROGRAM

RULES AND REGULATIONS

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FOREWARD

Vending facilities are widely recognized as an effective means of providing persons who are blind with meaningful employment. Started in 1944, the Business Enterprise Program has grown steadily throughout the years.

This handbook contains rules, regulations, policies and standards governing the operation of vending facilities in Georgia. It is subject to continuing review and revision in order that it may reflect needed improvements or changes based on future events and changing conditions. This handbook is a result of a collaborative relationship between the Georgia Department of Labor, Rehabilitation Services, Business Enterprise Program, and the Committee of Blind Vendors.

The Georgia Business Enterprise Program is operated within the legal authority of the Randolph-Sheppard Act, 20 U.S.C. 107 et seq.

Peggy Rosser, Assistant Commissioner
Rehabilitation Services

SCOPE OF RULES AND REGULATIONS

The Georgia Vocational Rehabilitation Act No. 321, passed by the General Assembly in 1951, as amended, Executive Reorganization Act of 1972, Georgia Laws 1972, p. 1015, and by administration and supervision of the Business Enterprise Program under the Georgia Department of Labor's Rehabilitation Services. The legal authority for licensing blind individuals to operate vending facilities is stipulated in Section 4(d) of Act No. 321, including the authority to issue rules and regulations having the force and effect of law in the State.

The rules and regulations shall be adequate to enable the Georgia Department of Labor's Rehabilitation Services to carry out full responsibilities under the Randolph-Sheppard Act as amended. These rules and regulations shall assure the effective conduct of the vending facilities and the operation of each vending facility established under the program in accordance with 34 CFR 395, and with the requirements and conditions of each federal property managing agency, including the conditions contained in permits, as well as in all applicable Federal and State laws, local ordinances and regulations.

ORGANIZATION AND ADMINISTRATION OF THE BUSINESS ENTERPRISE PROGRAM

The Business Enterprise Program in Georgia is under the jurisdiction and control of the Georgia Department of Labor, Rehabilitation Services. The Assistant Commissioner of Rehabilitation Services is responsible to the Department of Labor through its commissioner, for the operation of the Rehabilitation Services program. The Georgia Department of Labor, Rehabilitation Services has been designated as the State Licensing Agency by the Commissioner of the Rehabilitation Services Administration, U.S. Department of Education, to carry out the services as provided in accordance with the Randolph-Sheppard Act at 20 USC 107 et seq. and the implementing regulation at 34 CFR 395.

The Assistant Commissioner, Rehabilitation Services, is responsible for the overall supervision of the Business Enterprise Program. The Director of the Business Enterprise Program is directly responsible to the Assistant Commissioner and is charged with responsibility of the day-to-day operation of the Business Enterprise Program.

The Business Enterprise Program works closely with the community-based services counselors from whom referrals are received for vendor candidates. This program provides training, placement, and ongoing supportive services to vendors and vendor candidates throughout the State.

The Director of the Business Enterprise Program participates with the Committee of Blind Vendors in major administrative, policy and program development decisions affecting the overall administration of the vending facilities.

The Georgia Department of Labor, Rehabilitation Services has elected to utilize the services of the Georgia Cooperative Services for the Blind, Inc., a non-profit corporation, in the operation of the vending facilities as a nominee agency as provided for in 34 CFR 395.15. The nominee agency shall provide accounting and vendor training services in accordance with the agreement signed with the State Licensing Agency.

Definitions and Terms

1. "Blind licensee" means a blind person licensed by the State Licensing Agency to operate a vending facility on Federal or other property.
2. "Blind person" means a person who, after examination by a physician skilled in diseases of the eye or by an optometrist, whichever such person shall select, has been determined to have:
 - a. Not more than 20/200 central visual acuity in the better eye with correcting lenses, or
 - b. An equally disabling loss of the visual field as evidenced by a limitation to the field of vision in the better eye to such a degree that its widest diameter subtends an angle of no greater than 20 degrees.
3. "Cafeteria" means a food dispensing facility capable of providing a broad variety of prepared foods and beverages (including hot meals) primarily through the use of a line where the customer serves himself from displayed selections. A cafeteria may be fully automatic or some limited waiter or waitress service may be provided within a cafeteria. Table or booth seating facilities are always provided.
4. "License" means a written instrument issued by the State Licensing Agency to a blind person authorizing such person to operate a vending facility on Federal or other property.
5. "Management services" means supervision, inspection, quality control, consultation, accounting, regulating, in-service training, and other related services provided on a systematic basis to support and improve vending facilities operated by blind vendors. "Management services" does not include those services or costs which pertain to the on-going operation of an individual facility after the initial establishment period.
6. "Nominee" means a nonprofit agency or organization designated by the State Licensing Agency through a written agreement to act as its agent in the provision of services to blind licensees under the State's vending facility program.
7. "Normal working hours" means an eight hour work period between the approximate hours of 8:00 a.m. to 6:00 p.m., Monday through Friday.
8. "Permit" means the official approval given a State Licensing Agency by a department, agency or instrumentality in control of the maintenance, operation, and protection of Federal property, or person in control of other property, whereby the State Licensing Agency is authorized to establish a vending facility.

9. "Program" means all the activities of the licensing agency under this part related to vending facilities on Federal or other property.
10. "Secretary" means the Secretary of Education.
11. "Set-aside funds" means funds which accrue to a State Licensing Agency from an assessment against the net proceeds of each vending facility in the State's vending facility program and any income from vending machines on Federal property which accrues to the State Licensing Agency.
12. "State Licensing Agency" means the State agency designated by the Secretary under this part to issue licenses to blind persons for the operation of vending facilities on Federal and other property.
13. "Vending facility" means automatic vending machines, cafeterias, snack bars, cart service, shelters, counters, and such other appropriate auxiliary equipment which may be operated by blind licensees and which is necessary for the sale of newspapers, periodicals, confections, tobacco products, foods, beverages, and other articles or services dispensed automatically or manually and prepared on or off the premises in accordance with all applicable health laws, and including the vending or exchange of chances for any lottery authorized by State law and conducted by an agency of a State within such State.
14. "Vendor" means a blind licensee who is operating a vending facility on Federal or other property.
15. "SLA" – the Georgia Department of Labor's Rehabilitation Services is the same as SLA. These terms are used interchangeably.
16. "Written information or in writing" shall be deemed to include alternative formats as requested.
17. "Blind licensee candidate" – Blind individuals who have expressed a desire to enter the program and have been certified as qualified to operate a vending facility. A blind person becomes a blind licensee candidate at the successful completion of training and remains a blind licensee candidate through the successful completion of a six-month probationary or trial work period at which time a license is issued.
18. "Relative" means father, mother, sister, brother, son, daughter, spouse, grandparent, immediate in-law, legal ward or guardian.
19. "Trained pool of vendors" means vendors who have had training in the vendor selection process including Behavioral Interviewing techniques.

I. EQUIPMENT AND STOCK

A. VENDING FACILITY EQUIPMENT AND INITIAL STOCK PROVIDED BY SLA

The State Licensing Agency is responsible for providing each vending facility, established under the program, suitable equipment and initial stock. The State Licensing Agency will provide such equipment by using one or more of the following options: purchase, lease/purchase, rental, or donated equipment. The SLA will fund the acquisition of equipment by utilizing either state or federal, set-aside, facility generated or jobber funds.

1. The State Licensing Agency shall retain the right, title and interest to all vending facility equipment and initial stock. It shall have the authority to direct, control, transfer and dispose of such equipment and stock when necessary.
2. The vendor shall make no additions or reductions to the vending facility and its operation in the form of equipment, fixtures or facilities without first receiving written authorization from the State Licensing Agency.
3. The State Licensing Agency shall negotiate all contracts for installation or location of vending machines or other equipment.
4. Vending machine payments for commissions shall include information relative to sales and shall be made to the Georgia Cooperative Services for the Blind, Inc. (GA Co-op). The GA Co-op shall make distributions of commissions received to the vendors in accordance with the program's rules and regulations.

B. MAINTENANCE AND REPLACEMENT OF EQUIPMENT

The State Licensing Agency shall maintain, or cause to be maintained, all vending facility equipment in good repair and attractive condition. Funds for the maintenance and repair of equipment shall be provided from set-aside funds. Funding for the replacement of vending facility equipment can be provided from state and federal funds or from set-aside funds.

1. Replacement in lieu of repair shall be the decision of the State Licensing Agency staff (refer to I.A.1).
2. Each vendor shall take reasonable care of equipment in the facility and carry out routine, day-to-day maintenance procedures.
3. It is the responsibility of the vendor to report, at the first opportunity, any incident resulting in damage, breakage, theft, defacement or malfunction of equipment or fixtures provided for his/her use.
4. The vendor is authorized to arrange for emergency equipment repair to avoid loss of perishable stock, or to avoid endangering life or property. In any case the SLA must be notified as soon as possible.

II. FUNDS MANAGEMENT

A. SETTING ASIDE OF FUNDS

1. The State Licensing Agency shall set aside, or cause to be set aside, funds from the net proceeds of the operation of the vending facilities. These set-aside funds shall be used only for the following purposes:
 - a. Maintenance and replacement of equipment
 - b. Purchase of new equipment
 - c. Management services
 - d. The establishment and maintenance of retirement or pension plans, health insurance contributions and provision for paid sick leave and vacation leave, if it is so determined by a majority vote of blind vendors licensed by the State Licensing Agency, after such agency provides to each vendor information on all matters relevant to such proposed purposes.
2. In no case shall the funds set aside for the specified purposes exceed the amount approved by the commissioner of the Rehabilitation Services Administration.
3. The State Licensing Agency has established, with active participation and approval of the Committee of Blind Vendors, a set-aside rate of 12 percent of the net proceeds from the operation of each vending facility. The set-aside rate is reviewed annually with the Committee of Blind Vendors to ensure that the rate is sufficient.
 - a. The set-aside rate was established after study by the Committee of Blind Vendors and the SLA of the expenditures made for each of the program purposes over the past. The committee and the SLA approved a variable schedule for the expenditure of set-aside funds by purpose. The percentages below refer to net proceeds.

| <u>Purpose</u> | <u>Minimum Rate</u> | <u>Maximum Rate</u> |
|--------------------------------|-------------------------|-------------------------|
| 1. Purchase of New Equipment | 0 | 5% |
| 2. Maintenance and Replacement | 2% | 7% |
| 3. Management Services | 2% | 7% |
| 4. Vendor Benefits Services | 0 | 10% |

- b. The expenditures for vendor benefits are determined each year by the SLA, in consultation with the Committee of Blind Vendors after considering previous years unused set-aside funds, vending machine income and other income.
- c. The charges for each of the purposes cited may be re-evaluated annually by the SLA, in consultation with the Committee of Blind Vendors. Adequate records shall be maintained by the SLA to support the charges for each of the purposes cited.

B. DISTRIBUTION AND USE OF INCOME FROM VENDING MACHINES ON FEDERAL PROPERTY

1. Vending machine income received by the State Licensing Agency from vending machines on federal property under the vending machines income sharing provisions in 34 CFR 395.32 shall accrue to each blind vendor operating a vending facility on such federal property in an amount not to exceed the average net income of the total number of blind vendors within the State, as determined each fiscal year on the basis of each prior year's operation, except that vending machine income shall not accrue to any blind vendor in an amount exceeding the average net income of the total number of blind vendors in the United States.
2. No blind vendor shall receive less vending machine income than he was receiving during the calendar year prior to January 1, 1974, as a direct result of any limitation imposed on such income under this ruling.
3. No limitations shall be imposed on income from vending machines combined to create a vending facility when such vending facility is maintained, serviced, or operated by a blind vendor.
4. The State Licensing Agency shall disburse accrued vending machine income to blind vendors on at least a quarterly basis.

5. Vending machine income retained by the State Licensing Agency from federal agencies, where no blind vendor is assigned shall be used for the establishment and maintenance of retirement or pension plans, for health insurance contributions, and for the provision of paid sick leave and vacation leave, if it is so determined by a majority vote of the licensed vendors, after each vendor has been furnished information on all matters relevant to such purposes. Any vending machine income not necessary for such purposes shall be used for one or more of the following: maintenance and replacement of equipment, purchase of new equipment, management services, and assuring a fair minimum return to vendors. Any assessment charges to blind vendors shall be reduced pro rata in an amount equal to the total of such remaining vending machine income.

C. ACCESS TO PROGRAM AND FINANCIAL INFORMATION

Each blind vendor shall be provided access to all program and financial data of the State Licensing Agency relevant to the operation of the vending facilities, including quarterly and annual financial reports, if such disclosure does not violate applicable federal or state laws pertaining to the disclosure of confidential information; that insofar as practicable such data shall be made available in Braille or recorded tape; and that, at the request of a vendor, the State Licensing agency will arrange a convenient time to assist in the interpretation of such data.

III. COMMITTEE OF BLIND VENDORS

A. ELECTIONS:

The State Licensing Agency shall conduct the election of a Committee of Blind Vendors which to the extent possible, shall be fully representative of all blind vendors in the state vending facility program.

B. FUNCTIONS:

The function of the Committee of Blind Vendors is to participate with the state licensing agency in major administrative decisions affecting the overall administration of the vending facility program. Other functions of this committee are:

1. To receive and transmit to the State Licensing Agency grievances at the request of the blind vendors and to serve as advocates for such vendors.
2. To actively participate with the state licensing agency in developing and administering a state system for the transfer and promotion of blind vendors.
3. To participate with the State Licensing Agency in the development of training and re-training programs for blind vendors.
4. To sponsor, with the assistance of the State Licensing Agency, meetings and instructional conferences for blind vendors.
5. To participate with the State Licensing Agency in developing and maintaining policies which govern the duties, supervision and financial participation of the blind vendors.

C. TERMS OF OFFICE AND DUTIES OF CBV REPRESENTATIVES:

1. The committee shall be composed of ten blind vendor representatives. Blind Vendor Representatives shall be elected by a majority of votes cast by licensed blind vendors in his/her respective region who are present and voting at the meeting held for that purpose, in addition to votes cast through the absentee ballot process. Eligibility for representatives on this committee requires that candidates be: (1) a licensed blind vendor; (2) in good standing with the vending facility program; and (3) willing to serve on this committee. Terms of office will be for 2 year periods and will be staggered so that approximately one-half of the representatives will rotate each year. Each

representative shall be limited to serving his/her area no more than three (3) consecutive two (2) year terms.

2. Alternate representatives shall be elected at the same time the regular representatives are elected, using the same eligibility criteria, and shall serve the same terms. Alternate representatives shall serve in the event the regular representative is unable to participate in meetings and business of the committee. The alternate shall fill any unexpired term of a regular representative under the following conditions: (1) the representative dies; (2) the representative resigns or retires from the program; (3) the representative transfers to another facility outside the district represented.

In the event the representative and/or the alternate is unable to continue serving, the vendors in the region affected will be polled to solicit candidates to fill the vacant position(s). A special telephone election will be conducted by the SLA, and the replacement representative and/or alternate will serve through the end of the unexpired term.

3. The committee chairperson shall also be elected at the training conference designated for that purpose. Election shall be by the majority of all licensed blind vendors who are present and voting, in addition to votes cast through the absentee ballot process. The committee vice-chairperson shall be elected by the Committee of Blind Vendors. The chairperson can serve three consecutive two year terms, total of six years continuous service. The vice-chairperson will be elected annually.
4. The director of the Business Enterprise Program or designee shall represent the SLA in meetings with the Committee of Blind Vendors.
5. The committee shall meet quarterly at a time and place found to be convenient to its members. Each representative shall be notified at least seven days prior to any scheduled or called meeting of the committee. A "called meeting" may be held in addition to regularly scheduled meetings at the request of the director of the Business Enterprise Program or at the request of three or more members of the committee.
6. In order to carry on the functions of the committee, the chairperson may designate sub-committees, or individual members to serve on permanent sub-committees on an individual basis or may designate sub-committees or individual members to serve on task forces to accomplish specific tasks. The chairperson shall coordinate the activities of the sub-committees and task forces with the state licensing agency so that written information can be delivered to members in advance of a meeting to be used for discussion and decision making.

7. The committee, in its role of active participation in decision making and administration consistent with 34 CFR 395.14, shall have the opportunity to initiate matters for consideration by it and the State Licensing Agency and to make meaningful contributions to the State's vending facility program with its views and positions taken into careful and serious account by the State Licensing Agency.
8. The State Licensing Agency has the ultimate responsibility for the administration of the vending facility program in Georgia and if the agency does not adopt the view and position on any matter of the Committee of Blind Vendors, it shall notify the committee in writing of the decision reached or action taken and the reason therefor.
9. In order to assure opportunity for effective and constructive active participation by the committee, advance written notice of matters within its purview that are being considered for decision shall be delivered to each committee member seven days before any scheduled meeting.

IV. COMPLAINTS, HEARINGS AND ARBITRATION

A. ADMINISTRATIVE REVIEW PROCEDURES

The purpose of an administrative review is to provide an information procedure through which a licensed blind vendor or a blind licensee (hereinafter, vendor) and/or his/her representative may express and seek remedy for dissatisfaction with any agency action arising from the operation or administration of the vending facility program.

The following procedures shall be observed in conducting an administrative review:

1. A vendor or his/her designee must request in writing to the Director of the Business Enterprise Program within 15 working days of the occurrence of the action, an administrative review of a state agency action arising out of the operation or administration of the vending facility program with which the vendor is dissatisfied. This review will be conducted by person(s) on the administrative staff of the division who have not actively participated in the action in question.
2. An Administrative Review Form shall be submitted by the vendor when requesting the administrative review or the vendor may submit the same information in an alternative form.
3. The administrative review shall be held at a time and place convenient to both the vendor requesting such review and the state licensing agency person conducting the review, during regular business hours. The Director of the Business Enterprise Program shall schedule the review within 15 working days of the receipt of the request.
4. Transportation, reader or other communication service, if requested by the vendor, will be arranged by the State Licensing Agency.
5. The administrator conducting the review shall hear and consider all arguments and shall provide the vendor a written decision within 15 working days of the date of the review.
6. The notification of decision shall include instructions for further appeal if the vendor is dissatisfied with the review decision.
7. Documentation of the request for an administrative review and action taken shall be maintained as part of the official record of the

administrative review process for 26 weeks in the office of the Director of the Business Enterprise Program.

B. FULL EVIDENTIARY HEARING PROCEDURE

If the issue(s) is not resolved at the administrative review level, the licensed blind vendor or blind licensee (hereinafter, vendor), may request a full evidentiary hearing under the following procedures:

1. A vendor shall be informed in writing of the right to and the procedures to be followed in obtaining a full evidentiary hearing.
2. A vendor making a request for a full evidentiary hearing must do so within 15 working days from the date of the decision from an administrative review.
3. A vendor must request a full evidentiary hearing in writing. This request must be made to the Assistant Commissioner, Georgia Department of Labor, Rehabilitation Services, who serves as Administrator of the State Licensing Agency or to the Committee of Blind Vendors in accordance with 34 CFR 395.14 (b) (2). The request must be made within the appropriate time frame, unless an extension is made by the Assistant Commissioner, Georgia Department of Labor, Rehabilitation Services due to extenuating circumstances. It is suggested that it be mailed by certified/return receipt mail if not delivered by hand.
4. A vendor may be represented by legal counsel or other representative at the hearing. A vendor may obtain counsel at his/her own expense. Legal services are at times available in the community at low cost from the Legal Aid Society or other sources.
5. Reader services or other communication services shall be arranged for the vendor should he/she request it from the State Licensing Agency. Travel costs will be paid under the state policies for travel to the vendor to attend the hearing if the location of the hearing is in a city other than the legal residence of the vendor.
6. The hearing shall be held during regular business hours and in or near the county of residence of the vendor requesting the hearing. The vendor shall be notified in writing of the time and place fixed for the hearing and of his/her right to be represented by legal or other counsel. The vendor shall be provided a copy of the hearing

procedures and other relevant information requested to enable him/her to prepare for the hearing.

7. The presiding officer at the hearing shall be an impartial hearing officer who has no involvement either with the action in question or with the administration or operation of the Randolph-Sheppard vending facility program.
8. The hearing officer shall conduct a full evidentiary hearing without unnecessary delay, maintain order and make sufficient record of the proceeding for a full and true disclosure of the facts and issues.
9. Both the vendor and the State Licensing Agency are entitled to present their case by verbal and/or documentary evidence, to submit rebuttal evidence, and to conduct such examination and cross-examination of witnesses as may be required for a full and true disclosure of all facts bearing on the issue.
10. All papers and documents introduced into evidence at the hearing shall be filed with the hearing officer and provided to the other party. All such documents and other evidence submitted shall be open to examination by the parties and opportunities shall be given to refute facts and arguments advanced on either side of the issues.
11. A transcript of the hearing shall be made and arranged for by the hearing officer. The State Licensing Agency shall pay all costs associated with providing the transcript and shall provide the vendor with one copy.
12. A transcript of the testimony, exhibits and all documents filed in the hearing shall constitute the hearing record. Decisions shall be made on the evidence of record.
13. The decision of the hearing officer shall set forth the principal issues and relevant facts presented at the hearing, and the applicable provision of law, regulations and agency policy. It shall contain findings of fact and conclusions with respect to each of the issues, and the reasons and basis therefore.

The decision shall set forth any remedial action necessary by either party to resolve the dispute.

The decision shall be made within 15 working days after the receipt of the official transcript. The decision shall be delivered promptly to the vendor and the State Licensing Agency by the hearing officer.

14. If a vendor is dissatisfied with the decision rendered in the evidentiary hearing, he/she may request that an arbitration panel be convened by filing a request for same with the Secretary of the U.S. Department of Education, as authorized by the Randolph-Sheppard Act and 34 CFR 395.13 (a) within a reasonable time following receipt of the hearing decision.
15. The provisions of the administrative review procedures, the full evidentiary hearing procedures and the procedures for the arbitration of vendor complaints in accordance with 34 CFR 395.13 shall not require the participation of grantors of permits for the operation of vending facility on property other than federal property.
16. The filing of a complaint under 34 CFR 395.13 (a) with either the State Licensing Agency or the secretary shall indicate consent by the vendor for the release of such information as is necessary for the conduct of a full evidentiary hearing or the hearing of an ad hoc arbitration panel.



GEORGIA DEPARTMENT OF LABOR

REHABILITATION SERVICES – BUSINESS ENTERPRISE PROGRAM

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MICHAEL L. THURMOND
COMMISSIONER

BEP REQUEST FOR ADMINISTRATIVE REVIEW

DATE: _____

TO: _____

FROM: _____

AGENCY ACTION/DECISION I AM APPEALING:

SPECIFIC POLICY/PROCEDURE RELATED TO MY APPEAL:

REMEDY I AM REQUESTING:

SIGNATURE

DATE

V. TRAINING OF VENDORS

- A. The State Licensing Agency shall provide two methods of initial training of vending facility operators. Those two methods are as follows:
 - 1. Formalized vending facility training provided by Roosevelt Warm Springs Institute for Rehabilitation, Warm Springs, Georgia. This initial evaluation and training program has certain basic requirements, but can also be varied to meet the needs of each individual trainee. The average stay at the center for vending facility training is approximately four to six months. The evaluation process for clients who are blind at this center can last as long as 18 months. While attending vending facility training, other courses are available to the trainee, i.e., remedial courses, activities of daily living, personal grooming, orientation and mobility and communication skills training.
 - 2. Vending facility training is also provided by a trainer employed by the Georgia Cooperative Services for the Blind, Inc. This training may be provided in a variety of vending facility settings in Metro Atlanta. This training program focuses on vending facility training only. Specialized training and on-the-job training may also be provided by the trainer when schedule permits.
- B. The State Licensing Agency shall also provide additional training or re-training for all vendors in order to improve work opportunities. The Committee of Blind Vendors shall actively participate with the State Licensing Agency in the planning, design, updating and sponsoring of all training programs in the vending facility program.
- C. To assure that vendors stay abreast of the latest methods in the operation of a vending facility, the agency disseminates pertinent information through bulletins, regional and statewide meetings and supervisory contacts as the need arises.
- D. In conjunction with the training program, the agency has developed procedures for the performance appraisal of each vendor to be completed annually by Business Enterprise Program staff. The main goal of these performance appraisals is to help the vendor's professional growth and development and to enhance their sense of accomplishment in their particular facility. In addition, these performance appraisals are helpful in determining training needs and are also used in the selection process for promotional opportunities.

VI. LICENSING OF VENDORS

A. INITIAL APPOINTMENT

Blind persons wishing to enter employment with the vending facility program shall be certified by the SLA as being qualified to operate a vending facility.

Initial appointment of a blind person entering the vending facility program shall be for a six-month probationary period. Upon successful completion of the six-month probationary period in the operating of a vending facility, the blind person shall be licensed and designated a "vendor."

In the operation of a vending facility, a licensed blind vendor shall receive all benefits as specified in the program's Policies and Procedures Manual.

B. ISSUANCES AND CONDITIONS OF LICENSES

1. Preference shall be given to blind persons who are in need of employment. Licenses shall be issued only to persons who meet the following criteria:

- a. Blind persons.
- b. Persons who are citizens of the United States.
- c. Persons who are certified by the SLA as qualified to operate a vending facility.

2. List of Eligibles:

Applications for appointment as a vendor shall be accepted from anyone who meets the above criteria in Section VI.B.1 and a record will be maintained by the SLA of such applicants for a period of one year from the date of application.

3. Initial Appointment Shall Be Probationary:

- a. An applicant selected for appointment as a vending facility operator shall serve a six month probationary period. This probationary period will be used to:

1. Assist the blind licensee candidate to adjust to the physical environment.

2. Assist the blind licensee candidate to adjust to the requirements of a continuous work situation.
 3. Enable the agency to determine and correct any training deficits.
 4. Insure that the requirements of the building management at the vending facility site can be satisfactorily fulfilled.
- b. Blind licensee candidates in probationary status will be required to execute the provisional agreement: (Attachment #1).
 - c. If, during the probationary period, the Business Enterprise representative determines the blind licensee candidate is not successfully meeting the challenge of facility operation, or is unable to meet the requirements of the building grantor, the probationary appointment shall be terminated. In this event, consultation shall be held with the rehabilitation counselor as to further services to be provided to the individual. Persons terminated during the probationary period have no right to administrative review and evidentiary hearings, however clients may have appeal rights through the Client Assistance Program.
 - d. At the successful completion of the six month probationary period, the blind licensee candidate will be licensed as a vendor and a regular operating agreement will be signed by the vendor and the licensing agency (Attachment #2).
 - e. The policy of the SLA is that relatives will not be assigned as vendors in the same vending facility.

C. REVOCATION AND TERMINATION

1. Licenses shall be issued for an indefinite period, but may be terminated by the vendor upon 30 days written notice to the State Licensing Agency. Vendors leaving the program through voluntary separation and in good standing, shall remain as a "Blind Licensee." Upon re-entry to the program, these individuals would not have to serve a six month probationary period. A "Blind Licensee" who has been separated from the vending facility program for a period of two years or more shall be referred back to the Georgia Department of Labor, Vocational Rehabilitation

Services to again be certified as being qualified to operate a vending facility.

2. Any license issued to a vendor may be terminated by the State Licensing Agency, after affording the licensee an opportunity for an evidentiary hearing, if the assigned vending facility is not being operated in accordance with these rules and regulations, the terms and conditions governing the permit with the building grantor or the operating agreement signed by the vendor.
3. The license issued to an individual may be suspended or terminated for, but not limited to, the following reasons:
 - a. Improvement of vision so that the vendor no longer meets the definition of blindness in 34 CFR 395.1 (c).
 - b. Inability to work due to an extended illness with medically documented diagnosis of prolonged incapacity of the vendor to operate the vending facility in a manner consistent with the needs of the location or other available locations in the vending facility program.
 - c. Recurring lack of punctuality by the vendor in operating the vending facility.
 - d. Excessive or unexcused absences of the vendor from the vending facility.
 - e. Unethical, illegal or immoral behavior by the vendor while operating the vending facility.
 - f. Use of offensive language by the vendor while on duty or on site at the vending facility.
 - g. Unacceptable personal grooming or appearance of the vendor while on duty.
 - h. Discourteous or rude behavior by the vendor toward customers, building grantors, co-workers, or staff assigned supervisory responsibility for the vending facility.
 - i. Drinking of alcoholic beverages while on duty or reporting to work under the influence of alcohol or the illegal use of drugs.

- j. Acts of dishonesty by the vendor in the operation of a vending facility.
- k. Negligence or inefficiency by the vendor in the operation of a vending facility.
- l. Violation of vending facility rules and regulations, or failure to comply with verbal or written instructions from the State Licensing Agency.

D. VENDOR RIGHTS AND RESPONSIBILITIES

- 1. The State Licensing Agency will furnish to each vendor copies of documents relevant to the operation of the vending facility, including the rules and regulations, a written description of the arrangement for providing services, and the agreement and permit covering the operation of the vending facility.
- 2. Rules and regulations approved by the commissioner of the Rehabilitation Services Administration shall be distributed to each vendor in the program.
- 3. Regional and/or statewide meetings shall be scheduled for all vendors to discuss new agreements and changes to the rules and regulations.
- 4. Rules and regulations shall be made a part of the initial training program for all new blind licensee candidates enrolled in the program.
- 5. Other rights of the vendor are included in Section IV: Complaints, Hearings and Arbitration.

AGREEMENT OF OPERATION OF A VENDING FACILITY
UNDER THE RANDOLPH-SHEPPARD ACT
BETWEEN
THE GEORGIA DEPARTMENT OF LABOR'S,
REHABILITATION SERVICES, BUSINESS ENTERPRISE PROGRAM,
(STATE LICENSING AGENCY), AND

A LICENSED BLIND VENDOR

This agreement entered into this _____ day of _____, _____, by and between the Georgia Department of Labor's Rehabilitation Services Business Enterprise Program, state licensing agency (hereinafter, SLA) and _____, licensed as a blind vendor under the Randolph-Sheppard Program (hereinafter, Vendor) by the SLA, WITNESSETH:

WHEREAS, the SLA has been granted a permit by _____ for the operation of a vending facility by a licensed blind vendor under the Randolph-Sheppard Program (hereinafter, permit) on the (Federal property) (Non-federal property) located at _____, and designated as Vending Facility # _____; and

WHEREAS, the SLA offered the vendor the opportunity to operate the vending facility under the terms and conditions hereinafter set forth; and

WHEREAS, the vendor has agreed to undertake the operation of the vending facility under the terms and conditions hereinafter set forth; and

WHEREAS, the parties do not intend to derogate in any way from responsibilities and rights imposed and granted by applicable federal, state or local laws or regulations;

NOW, THEREFORE, in consideration of the premises, it is mutually agreed as follows:

A. The SLA

1. The SLA shall provide equipment as provided in Part I and supply an adequate initial stock of merchandise for operation of said facility. The SLA shall furnish the vendor a written inventory of initial stock and petty cash to operate.
2. The SLA, at its option, shall maintain (or cause to be maintained) all vending facility equipment in good repair and in an attractive condition

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and shall replace or cause to be replaced worn-out obsolete equipment as required to ensure the continued successful operation of the facility.

3. The SLA is charged with the ultimate responsibility for the administration and operation of the vending facility program and shall provide or shall provide for supervisory and management services necessary for the efficient operation of vending facilities.
4. The SLA shall provide procedures which afford an opportunity for a full evidentiary hearing to each vendor dissatisfied with any agency action arising from the operation or administration of the vending facility program.
5. The SLA informs the vendor herein of the right to request the U.S. Secretary of Education to convene an ad hoc arbitration panel, in accordance with 34 CFR 395.13, if said vendor is dissatisfied with any action taken or decision rendered as a result of the full evidentiary hearing.
6. The SLA agrees that all licenses issued will be without regard to vendor's race, sex, age, creed, color, national origin, physical or mental disability, religious or political affiliation.
7. The SLA, in accordance with 34 CFR 395.15, may enter into an agreement whereby another agency or organization undertakes to furnish services to blind vendors.
8. The SLA shall determine work force needs of each vending facility and will ensure the hiring and termination process of all vendors.

B. The Vendor

1. The vendor shall be responsible for having the vending facility open for business on the days and hours specified in the permit or by the SLA. Vendor shall be on duty at the vending facility on days and during hours specified by the SLA.
2. The vendor shall operate the vending facility on a cash basis except for such credit accounts as may be established or authorized by the SLA.
3. The vendor shall be accountable to the SLA for the proceeds of the business of the vending facility and shall handle the proceeds, including payment to suppliers and deposit of program funds, in

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accordance with policies, established procedures or instructions from the SLA.

4. The vendor shall carry on business of the vending facility in compliance with applicable health laws, fire and safety laws, the vending facility rules and regulations and Americans with Disabilities Act.
5. The vendor shall maintain a neat businesslike appearance and shall practice good hygiene while working at the vending facility and will conduct the business of the facility in an orderly manner.
6. The vendor shall take proper care of the equipment of the vending facility and will make alterations or changes therein only with the written approval of the SLA.
7. The vendor shall notify the SLA with reasonable advance notice of taking any planned leave from the vending facility, and as soon as possible with respect to any unplanned leave. The vendor is responsible for making adequate plans to provide a SLA approved relief operator for planned or unplanned leave from the vending facility.
8. The vendor shall keep records and make reports as the SLA shall require. The SLA maintains right to access all financial records relative to the vending facility operation. These records are the property of the SLA and the vendor must turn the records over to the SLA if the vendor abandons the facility for any reason.
9. Vendor assistants and relief employees which the SLA may determine are reasonably necessary for the operation of the facility will be compensated from vending facility generated funds as a business expense of the facility.
10. The vendor receives stock and offers for sale only those types of merchandise or goods from SLA approved jobbers as prescribed by the SLA and shall give no special favors to any one article or merchandise over another offered for sale in the vending facility. The SLA reserves the right to establish retail prices for merchandise sold in each location.
11. The vendor shall not permit loitering by friends, relatives or acquaintances in the area of the vending facility.
12. The vendor shall not have on site or in his/her possession any firearms or lethal weapons while operating the vending facility.

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13. The vendor or any employees of the location shall not use tobacco products during peak hours of operation or while serving customers, and he/she must honor requirements of the building grantor regarding smoking policy.
14. The vendor shall not discriminate against any person in the use of any vending facility, including any and all services, privileges, accommodations, and activities provided thereby. Vendors shall comply with the Civil Rights Act of 1964, the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990 and regulations issued pursuant thereto.
15. The vendor agrees to abide by all state and federal regulations now in effect or hereinafter formulated.
16. The vendor will make no loans from vending facility program funds.

C. General

1. The right, title and interest in and to the equipment of the vending facility, the stock in trade and funds on hand are vested in the SLA, and shall be left at the vending facility or turned over to the SLA on the termination of this agreement for any reason by either of the parties. In such an event, the accrued profits shall be determined by the SLA and paid to the vendor or to the vendor's heirs or assignees. If such final settlement discloses that the vendor is indebted to the state agency, the vendor shall have deducted or pay the same forthwith to the state licensing agency.
2. The business to be carried on at the vending facility shall be limited to that specified and authorized in the permit or agreement.
3. The income of the vendor shall be the net proceeds of the business of the vending facility for the period in question less the funds which must be set aside, as established in writing by the SLA pursuant to 34 CFR 395.9.
4. Rebates, commissions or bonuses received from suppliers must be accounted for as income of the vending facility. Under no circumstances are such funds to be treated as the separate personal funds of the vendor.

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5. Program funds which are derived from sales in a vending facility are the property of the SLA and under no circumstances may be used by the vendor as his personal funds.
6. Merchandise taken from the stock in trade of the vending facility by the vendor for his/her own use shall be accounted for by the vendor and paid for at retail prices.
7. A set-aside charge shall be deducted from the net proceeds of each vending facility. The set-aside charge is established by the SLA, in consultation with the Committee of Blind Vendors and approved by the Commissioner of the Rehabilitation Services Administration.
8. A financial policy for the distribution of settlement of earnings shall be established by SLA in consultation with the Committee of Blind Vendors.
9. Vendors will be permitted to take two weeks vacation leave each year provided a satisfactory replacement is secured. Profit above the salary of the relief operator shall be disbursed to the vendor in accordance with the regular monthly schedule of draw and settlement payments.
10. In case of illness, vendors may request up to six months sick leave. If illness lasts more than one week, a doctor's certificate is required to support the request for leave. The vendor will be allowed six months leave within any twelve month period. All profit over the relief operator's salary will be disbursed to the vendor in accordance with the regular monthly schedule of draw and settlement payments, while vendor is on approved sick leave.
11. If, due to medical disability, the vendor is unable to perform duties in an efficient manner, vendor shall be subject to separation from the vending facility. However, if work compatible with vendor's state of health can be found within the program, the vendor shall be given consideration.
12. This agreement may be terminated at any time by the vendor with 30 days written notice. The agreement shall be terminated upon the revocation or termination of the state licensing agency's permit to operate a vending facility on federal or other property. In addition, it may be terminated by the SLA if the business of the vending facility is not conducted in accordance with this agreement, its rules and regulations, applicable federal, state or local laws or regulations.

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13. The signature of the vendor herein signifies the vendor has received a copy of the rules and regulations governing the vending facility program issued by the SLA and that such documents have been read and explained. The vendor further agrees he/she will abide by all Department of Labor/Rehabilitation Services rules and regulations.

| | | | | |
|------|-------|-------|-------|------------------------|
| | | _____ | | State Licensing Agency |
| Date | _____ | By | _____ | Title |
| Date | _____ | By | _____ | Vendor Signature |
| Date | _____ | By | _____ | Witness Signature |

VII. TRANSFER AND PROMOTION OF VENDORS

- A. **TRANSFER** of licensed vendors may be necessary from time to time to meet the best interests of the licensed vendor and/or the State Licensing Agency. A transfer shall be arranged by the State Licensing Agency if the best interest of the program is served thereby.
- B. **PROMOTION**: When a new vending facility is established or a licensed vendor vacancy occurs in an existing vending facility, it shall be the State Licensing Agency's policy to advertise the vacancy.

Promotional procedures are as follows:

1. All vendors will be notified on a statewide basis when there is an opening.
2. In order to be eligible to apply for transfer or promotion, a vendor must have operated his/her present vending facility for a minimum of six (6) months prior to the closing date of a vacancy announcement to which he/she intends to apply. This does not apply to vendors whose locations have been permanently closed by the grantor.
3. If a vendor is interested in the vacancy, he/she shall notify the State Licensing Agency in writing.
4. An interview committee will be established to make a recommendation from all applicants. The Program Manager, Training Coordinator, Director for the Business Enterprise Program or anyone assigned by the Director will serve as a non-voting resource person. The interview committee will be made up of three persons. They are as follows:
 - a. Business Enterprise representative in charge of the facility being offered as a promotional opportunity.
 - b. The representative or alternate from the Committee of Blind Vendors from the territory where the opening exists.
 - c. A vendor from the trained pool of vendors from the area of vacancy.
5. The selection committee will use the following criteria in making the selection:

- a. An applicant must not be on mandatory money-order as defined in procedure manual.
 - b. An applicant must not have sustained a severe disciplinary action within one year prior to the date of the vending facility announcement. A severe disciplinary action is a suspension or worse.
 - c. An applicant must not have three late reports which are unexcused and which occurred during the past six months.
 - d. Applicant must receive 10 or more "Satisfactory" ratings on most recent Performance and Evaluation form.
6. All applicants who meet the eligibility criteria will be interviewed.